

ASSEMBLY BILL

No. 1310

Introduced by Assembly Member Dutton

February 21, 2003

An act to repeal Section 1773.9 of the Labor Code, relating to wages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1310, as introduced, Dutton. Public works: prevailing wages.

Existing law provides the methodology that the Director of Industrial Relations is required to use to determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed, including the rate for holiday and overtime work.

This bill would repeal these provisions thereby relegating to the Director of Industrial Relations the authority to establish the methodology for determining these rates.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1773.9 of the Labor Code is repealed.
- 2 ~~1773.9.—(a) The Director of Industrial Relations shall use the~~
- 3 ~~methodology set forth in subdivision (b) to determine the general~~
- 4 ~~prevailing rate of per diem wages in the locality in which the public~~
- 5 ~~work is to be performed.~~
- 6 ~~(b) The general prevailing rate of per diem wages includes all~~
- 7 ~~of the following:~~
- 8 ~~(1) The basic hourly wage rate being paid to a majority of~~
- 9 ~~workers engaged in the particular craft, classification, or type of~~

1 ~~work within the locality and in the nearest labor market area, if a~~
2 ~~majority of the workers is paid at a single rate. If no single rate is~~
3 ~~being paid to a majority of the workers, then the single rate being~~
4 ~~paid to the greatest number of workers, or modal rate, is prevailing.~~
5 ~~If a modal rate cannot be determined, then the director shall~~
6 ~~establish an alternative rate, consistent with the methodology for~~
7 ~~determining the modal rate, by considering the appropriate~~
8 ~~collective bargaining agreements, federal rates, rates in the nearest~~
9 ~~labor market area, or other data such as wage survey data.~~
10 ~~(2) Other employer payments included in per diem wages~~
11 ~~pursuant to Section 1773.1 and as included as part of the total~~
12 ~~hourly wage rate from which the basic hourly wage rate was~~
13 ~~derived. In the event the total hourly wage rate does not include~~
14 ~~any employer payments, the director shall establish a prevailing~~
15 ~~employer payment rate by the same procedure set forth in~~
16 ~~paragraph (1).~~
17 ~~(3) The rate for holiday and overtime work shall be those rates~~
18 ~~specified in the collective bargaining agreement when the basic~~
19 ~~hourly rate is based on a collective bargaining agreement rate. In~~
20 ~~the event the basic hourly rate is not based on a collective~~
21 ~~bargaining agreement, the rate for holidays and overtime work, if~~
22 ~~any, included with the prevailing basic hourly rate of pay shall be~~
23 ~~prevailing.~~
24 ~~(e) If the director determines that the general prevailing rate of~~
25 ~~per diem wages is the rate established by a collective bargaining~~
26 ~~agreement, and that the collective bargaining agreement contains~~
27 ~~definite and predetermined changes during its term that will affect~~
28 ~~the rate adopted, the director shall incorporate those changes into~~
29 ~~the determination. Predetermined changes that are rescinded prior~~
30 ~~to their effective date shall not be enforced.~~

